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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/876,379
Filing Date: June 07, 2001
Appellant(s): BOTTEMILLER, KRAIG A.

Andrew J. Dillon
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 8/25/2005 appealing from the Office action mailed 5/4/2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-14 were rejected under 35 U.S.C. 102(e) as being anticipated by Sidi et al. (U.S. Patent No. 6,282,562).

In regard to claims 1 and 4, Sidi taught a communication profiler, for use with a data processing system including a processor and a memory coupled by a system interconnect, wherein said communication profiled comprises:

a control unit including an input port coupled to said system interconnect, wherein said control unit receives a collection of data via said input port as a result of a tenure on said system interconnect, wherein said control unit filters said collection of data from said tenure to obtain specific data requested by a user and organizes said specific data as a summary, wherein said control unit filters said collection of data without perturbing the operation of said data processing system (Sidi column 6, lines 25-50; and column 8, lines 59-61, where filtering inherently took place as all the aggregated data is "summarized into a statistical profile" (column 6, line 44). A specific "sub-optimization [was] desired" (column 6, line 46) by the user.).

In regard to claim 2, Sidi taught the communication profiler of claim 1, further comprising:

a. a profiler interconnect (Sidi figure 1 and column 5, lines 21-38); and

b. a profiler memory, coupled to said profiler interconnect, wherein said profiler memory stores said summary (Sidi column 9, lines 1-4).

In regard to claims 3 and 6, Sidi taught the communication profiler further including an output port that was coupled to an external analyzer to communicate said summary (Sidi column 9, lines 5-8).

In regard to claim 5, Sidi taught the communication profiler further including a transaction timer, coupled to said control unit, wherein said transaction timer was utilized to record a duration of a operation pending (Sidi column 7, lines 9-25).

In regard to claims 7-9, Sidi taught a data processing system, comprising:

a. a system interconnect (Sidi column 3, lines 33-42);

b. a plurality of master and slave elements, coupled to said system interconnect (Sidi column 3, lines 33-55, where a master element controlled a slave element); and

c. a communication profiler, coupled to said system interconnect, further including:

a control unit including an input port coupled to said system interconnect, wherein said control unit receives a collection of data via said input port as a result of a tenure between a master element and a slave element on said system interconnect, wherein said control unit filters said collection of data from said tenure and retrieves a set of specific data requested by a user and organizes said set of specific data as a summary wherein said control unit filters said collection of data without perturbing the operation of said data processing system. (Sidi column 6, lines 25-50; and column 8, lines 59-61, where filtering inherently took place as all the aggregated data is "summarized into a statistical profile" (column 6, line 44). A specific "sub-optimization [was] desired" (column 6, line 46) by the user.)

In regard to claims 10 and 11, Sidi taught a host data processing system comprising:

a. a host interconnect (Sidi column 3, lines 33-42);

b. a host processor and memory coupled to said host interconnect (Sidi column 6, lines 25-50 and column 9, lines 1-4);

c. a data processing system including a processor and memory coupled by a

system interconnect comprising:

i. a plurality of master and slave elements, coupled to said system interconnect (Sidi column 3, lines 33-55 where a master element controlled a slave element); and

ii. a communication profiler, coupled to said system interconnect, further including:

A. a control unit including an input port coupled to said system interconnect, wherein said control unit receives a collection of data via said input port as a result of a tenure between a master element and a slave element on said system interconnect, wherein said control unit filters said collection of data from said tenure and retrieves a set of specific data requested by a user and organizes said set of specific data as a summary, wherein said control unit filtered said collection of data without perturbing the operation of said data processing system. (Sidi column 6, lines 25-50; and column 8, lines 59-61, where filtering inherently took place as all the aggregated data is "summarized into a statistical profile" (column 6, line 44). A specific "sub-optimization [was] desired" (column 6, line 46) by the user.).

In regard to claims 12-14, Sidi taught a method for gathering hardware performance data, comprising the steps of:

a. activating a communication profiler coupled to a system interconnect by setting a control register, coupled to a control unit in said communication profiler (Sidi column 6, lines 25-50 where resetting deactivated the profiler);

b. monitoring a system interconnect for a tenure between a master element and a slave element of a data processing system, wherein said control unit filtered said

collection of data without perturbing the operation of said data processing system (Sidi, column 6, lines 25-50; and column 8, lines 59-61 where filtering inherently takes places as all the aggregated data is "summarized into a statistical profile" (column 6, line 44);

c. capturing a set of data resulting from said tenure and organizing said set of data into a summary, in response to detecting a tenure on said system interconnect (Sidi column 9,lines 5-8); and

d. transmitting said summary to an external analyzer (Sidi column 9, lines 5-8).

(10) Response to Argument

Applicant has chosen to make a single argument – that Sidi failed to disclose "said control unit filters said collection of data without perturbing the operation of said data processing system." It is apparent from the argument presented by Applicant that Applicant and the Examiner differ over the meaning of the word "perturbing" in reference to the application. Applicant has failed to define "perturbing" in the specification, and therefore the Examiner has looked toward the broadest reasonable interpretation of the word "perturbing" when analyzing Applicant's claims in regard to the Sidi reference.

The American Heritage College Dictionary, Fourth Edition, defines perturb as "To disturb greatly; make uneasy or anxious". The modifications performed by Sidi did not "perturb" – they did not "disturb greatly" the system.

In fact, the modifications performed by Sidi enhanced the system as a whole. Sidi slowed unnecessary system usage in order to allow services with a higher priority or importance to get better service by "discouraging" the unnecessary system usage during the use of services with a higher priority. See Sidi, column 2, lines 35-50, where Sidi explicitly disclosed that "economically disadvantageous interactions" were discouraged in order to allow for more economically advantageous interactions to get priority, therefore increasing the usefulness of the system as a whole.

Applicant has made no other arguments concerning the final rejection of this case over the Sidi reference.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Jeffrey R. Swearingen

Conferees:

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RUPAL DHARIA
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